



**IT IS ORDERED as set forth below:**

**Date: January 27, 2010**

*Mary Grace Diehl*

**Mary Grace Diehl  
U.S. Bankruptcy Court Judge**

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

In Re:	:	Case No. 07-79129-MGD
	:	
<b>Pike Nursery Holding, LLC,</b>	:	Chapter 7
	:	
Debtor.	:	Judge Mary Grace Diehl
	:	
<b>Marcus A. Watson, Sr., Chapter 7</b>	:	
<b>Trustee for Pike Nursery Holding, LLC,</b>	:	
	:	
Plaintiff,	:	
v.	:	Adversary Proceeding No. 09-06695
	:	
<b>Bennett Thrasher PC,</b>	:	
	:	
Defendant.	:	

**ORDER GRANTING PLAINTIFF'S MOTION TO AMEND COMPLAINT**

Before the Court is the Plaintiff's Motion for Leave to Amend Complaint. (Docket No. 4).

Plaintiff seeks permission to add an additional count to his complaint. No objection or response to Plaintiff's motion has been filed, and the motion was properly filed and served on Defendant.

Plaintiff moves for leave to amend the complaint under Rule 15(a) of the Federal Rules of Civil Procedure, made applicable to this adversary proceeding by Rule 7015 of the Federal Rules of Bankruptcy Procedure. Plaintiff also seeks to have the amendment relate back to the date of filing the original complaint, November 13, 2009.

When a party seeks to amend its complaint after the defendant has answered, it may do so "only by leave of the court or by written consent of the adverse party." The Federal Rules of Civil Procedure provide for liberal amendment of pleadings. FED.R.CIV.P. 15(a) ("The court should freely give leave when justice so requires."). A court cannot deny a motion to amend merely on its own discretion; a "substantial reason" must exist for a court to deny leave to amend. *See Shipner v. Eastern Air Lines, Inc.*, 868 F.2d 401, 407 (11th Cir. 1989). However, a motion to amend may be denied on "numerous grounds," including "undue delay, undue prejudice to the defendants, and futility of the amendment." *Abramson v. Gonzalez*, 949 F.2d 1567, 1581 (11th Cir. 1992); *see also Foman v. Davis*, 371 U.S. 178, 182, 83 S. Ct. 227, 230 (1962); *Williams v. Little Rock Mun. Water Works*, 21 F.3d 218 (8th Cir. 1994). Rule 15(c)(1)(B) provides that the amended pleading relates back to the date of the original pleading when "the amendment asserts a claim or defense that arose out of the conduct, transaction, or occurrence set out - or attempted to be set out - in the original pleading." FED.R.CIV.P. 15(c)(1)(B).

Permitting Plaintiff to amend his complaint is warranted based upon the expansive authority to amend pleadings under Rule 15 of the Federal Rules of Civil Procedure and the lack of opposition to Plaintiff's Motion for Leave to Amend by Defendant. Because the proposed amended additional claim arises out of the alleged conduct, transaction, or occurrence of the original complaint, the

amended complaint shall relate back to the date of the original complaint, January 4, 2010.

Accordingly, it is

**ORDERED** that Plaintiff's Motion for Leave to Amend Complaint is hereby **GRANTED**.

It is **FURTHER ORDERED** that the Plaintiff shall serve its Amended Complaint within fourteen (14) days of the entry of this Order and the Plaintiff's Amended Complaint shall relate back to January 4, 2010. Defendant shall plead in response to the Amended Complaint within fourteen (14) days after service of the Amended Complaint, as provided in FED. R. CIV. P. 15(a)(3).

The Clerk shall mail a copy of this Order to counsel for Plaintiff, counsel for the Defendant, and the United States Trustee.

**END OF DOCUMENT**